

HOUSE BILL No. 1062

DIGEST OF INTRODUCED BILL

Citations Affected: IC 2-5-28; IC 4-13-1.8.

Synopsis: Review of privatization of state functions. Creates the privatization review committee (committee). Requires a state agency to develop a privatization plan before privatizing any state program. Requires a state agency to hold a hearing on the plan and report the results of the hearing to the public and the committee. Requires the committee to: (1) review a privatization plan before the plan is implemented; and (2) make advisory recommendations to the governor. Provides that a privatization contract may not extend beyond June 30 of a year in which a governor next takes office.

Effective: Upon passage.

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January 8, 2007, read first time and referred to Committee on Rules and Legislative Procedures.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1062

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 2-5-28 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 28. Privatization Review Committee**

5 **Sec. 1. (a) The definitions in this section apply throughout this**
6 **chapter.**

7 (b) "Committee" means the privatization review committee
8 established by section 2 of this chapter.

9 (c) "Implementation date" means the date on which a state
10 agency turns over administration of a program to a private entity
11 that will operate the program.

12 (d) "Private sector" refers to any entity or individual not
13 principally a part of or associated with a governmental unit.

14 (e) "Privatize" refers to a state agency contracting with a
15 private sector entity or individual to:

16 (1) provide services that are conducted directly by the
17 employees of a state agency before the privatization; or

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(2) enter into a contract that has a total dollar amount greater than fifteen million dollars (\$15,000,000).

The term does not include contracting with a private sector entity or individual to provide services on a temporary or an emergency basis.

(f) "Program" means a legislatively or administratively created function, project, or duty of a state agency.

(g) "State agency" has the meaning set forth in IC 4-13-1-1(b).

Sec. 2. (a) The privatization review committee is established to review privatization plans before the implementation date.

(b) The committee consists of fifteen (15) members appointed as follows:

(1) Three (3) members of the house of representatives appointed by the speaker of the house of representatives.

(2) Three (3) members of the house of representatives appointed by the minority leader of the house of representatives.

(3) Three (3) members of the senate appointed by the president pro tempore of the senate.

(4) Three (3) members of the senate appointed by the minority leader of the senate.

(5) Three (3) members of the public appointed by the chairman of the legislative council as follows:

(A) One (1) representative of labor.

(B) One (1) representative of the business community.

(C) One (1) representative of a public university of the state.

(c) Not more than two (2) members appointed under subsection (b)(5) may be from the same political party.

(d) Members shall be appointed to a term of four (4) years.

(e) The committee shall hold hearings to:

(1) review plans of state agencies that are privatizing programs submitted to the committee; and

(2) make advisory recommendations to the governor on the plans.

(f) The legislative services agency shall staff the committee.

(g) The expenses of the committee shall be paid from appropriations made to the legislative council or the legislative services agency.

(h) Each member of the committee who is not a member of the general assembly is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to

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reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(i) Each member of the committee who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(j) The affirmative votes of a majority of the members of the committee are required for the committee to take action on any recommendation.

(k) The chairman of the legislative council shall appoint a member of the committee to serve as chairperson. Whenever there is a new chairman of the legislative council, the new chairman may remove the chairperson of the committee and appoint another chairperson.

(l) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

(m) A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

(n) If a vacancy exists on the committee, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy.

(o) The committee may meet at any time during the year upon the call of the chairperson.

SECTION 2. IC 4-13-1.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 1.8. Privatization Contracts

Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Committee" means the privatization review committee established by IC 2-5-28-2.

(c) "Implementation date" means the date on which a state agency turns over administration of a program to a private entity that will operate the program.

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(d) "Private sector" refers to any entity or individual not principally a part of or associated with a governmental unit.

(e) "Privatize" refers to a state agency contracting with the private sector to:

(1) provide services that are conducted directly by the employees of a state agency before the privatization; or

(2) enter into a contract that has a total dollar amount greater than fifteen million dollars (\$15,000,000).

(f) "Program" means a legislatively or administratively created function, project, or duty of a state agency.

(g) "State agency" has the meaning set forth in IC 4-13-1-1(b).

Sec. 2. Before a state agency privatizes a program, the state agency must prepare a privatization plan that includes the following:

(1) A description of the program to be privatized, including a reference to the legal authority under which the program was created.

(2) Detailed budget information that includes a list of revenues and expenditures for the two (2) most recent fiscal years.

(3) A list of:

(A) all state employees currently employed by the state agency to administer the program; and

(B) the estimated effect of the privatization on the employment status of each employee.

(4) A list of the:

(A) assets of the program; and

(B) proposed disposition of the assets.

(5) An estimate of:

(A) cost savings; or

(B) additional costs;

resulting from privatizing the program compared to the costs of the existing program. Cost estimates must include the estimated cost to the state for inspection, supervision, and monitoring of the program if the privatization is implemented. The estimate must also include an estimate of any costs that would be incurred if the privatization contract is discontinued.

(6) An estimate of the changes in individual wages and benefits that will result from the privatization.

(7) Descriptions and plans for ways the privatization will deliver the same or better services at a lower cost.

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(8) Information on whether the contract is going to be given to an out-of-state business (as defined in IC 4-13.6-6-2.5 and IC 5-22-15-20).

Sec. 3. (a) Not less than forty-five (45) days before a privatization plan becomes effective, the state agency must submit the plan to the committee.

(b) The committee shall hold a hearing on the privatization plan not less than thirty (30) days before the date on which the privatization plan becomes effective.

(c) The committee shall post notice of the hearing under IC 5-14-1.5-5.

(d) The committee shall make an advisory recommendation concerning the privatization plan to the governor not later than five (5) days after the hearing held under subsection (b). The committee shall forward a copy of the recommendation under this subsection to the legislative council in an electronic format under IC 5-14-6.

Sec. 4. The term of a privatization contract, including any renewals, may not extend after June 30 of the year in which the next term of governor begins in compliance with Article 5, Section 9 of the Constitution of the State of Indiana.

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" means the privatization review committee established by IC 2-5-28-2, as added by this act.

(b) Each appointing authority specified in IC 2-5-28-2, as added by this act, must make appointments to the committee under IC 2-5-28-2, as added by this act, not later than three (3) weeks after the effective date of this SECTION.

(c) This SECTION expires July 1, 2007.

SECTION 4. An emergency is declared for this act.

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